



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Department of Revenue

☒ **Permanent Rule**
☐ **Emergency Rule**

Effective date of rule:

Permanent Rules

☒ 31 days after filing.

☐ Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

☐ Immediately upon filing.

☐ Later (specify)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain:

Purpose: WAC 458-20-190 explains the tax reporting responsibilities of persons making sales to the United States and to foreign governments. It also explains the tax reporting responsibilities of persons engaging in business activities within federal reservations, which is currently addressed in WAC 458-20-191. Tax reporting guidance regarding the preferential tax rate for cleaning up radioactive waste and other byproducts of weapons production for the United States (RCW 82.04.263) has also been added to the rule. Pertinent information from the following excise tax advisories (ETAs) has been incorporated and they will be cancelled in conjunction with this rule action.

- ETA 2007.04.190 (Taxability of federal instrumentalities and federally created corporate entities);
- ETA 350.04.190 (Business and Occupation Tax -- Medical Service Associations); and
- ETA 258.08.190 (National Guard Post Exchange Sales).

Citation of existing rules affected by this order:

Repealed: WAC 458-20-191 (Federal Reservations);

WAC 458-20-99999 (Appendix -- The Buck Act)

Amended: WAC 458-20-190 (Sales to and by the United States, ~~its departments, institutions and instrumentalities --~~
Doing business on federal reservations -- Sales to foreign governments)

Statutory authority for adoption: RCWs 82.32.300, 82.01.060(1), and 34.05.230

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 04-19-098 on September 20, 2004.

Describe any changes other than editing from proposed to adopted version: **Subsection (9)(c)(iv)'s example regarding security services has been changed to explain that security services provided at a clean-up site may qualify for the preferential B&O tax rate provided by RCW 82.04.263. The example explains that if the contract does not identify the income attributable to qualifying security services, but the taxpayer can substantiate that qualifying services are the predominant activity/services performed under the contract, the income attributable to the entire contract qualifies for the preferential tax rate.**

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: **An analysis was not prepared.**

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted:

Name (type or print)

Alan R. Lynn

Signature

Title Rules Coordinator

CODE REVISER USE ONLY

Filed: January 5, 2005

Time: 2:00 PM

WSR: 05-03-002

The above information was input by DOR.

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	Amended	Repealed
Federal rules or standards:	New	Amended	Repealed
Recently enacted state statutes:	New	Amended	Repealed

The number of sections adopted at the request of a nongovernmental entity:

New	Amended	Repealed
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The number of sections adopted in the agency's own initiative:

New	Amended	1	Repealed	2
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	Amended	Repealed
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The number of sections adopted using:

Negotiated rule making:	New	Amended	Repealed		
Pilot rule making:	New	Amended	Repealed		
Other alternative rule making:	New	Amended	1	Repealed	2